

REMARKS

Applicants reply to the final Office Action dated May 25, 2011 within two (2) months. The Examiner rejects all pending claims 17-33. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Applicants assert that the application is in condition for allowance and reconsideration of the pending claims is requested.

Rejections Under 35 U.S.C. § 103(a)

The Examiner rejects claims 17-33 under 35 U.S.C. § 103(a) as being unpatentable over Fredregill (U.S. Patent Application No. 2005/0144074) in view of Davis (U.S. Patent Application No. 2004/0193491) and further in view of Musharbash (U.S. Patent No. 7,096,164). Applicants respectfully disagree with the Examiner's rejections; however, Applicants amend certain pending claims, without prejudice or disclaimer, to further clarify the patentable aspects and to expedite prosecution. Moreover, Applicants assert that the Examiner has not made a prima facie case of obviousness.

Fredregill discloses an on-line shopping system that can be associated with a loyalty account. However, Fredregill does not disclose a logic based point conversion ratio based on the type of loyalty points be used and the type of item being purchase. In fact, Fredregill does not provide a system that is capable of collecting points from various accounts at a single source. In the Office Action at page 4, the Examiner notes that the Fredregill discloses:

The points that may be earned include 'regular' points and 'bonus' points ... customers earn 'regular' points based on the pretax dollar amount of the current sales transaction, less any exempt items. 'Bonus' points are extra points that may be earned by the customer on the purchase of specifically promoted items ... Bonus points may also be awarded in a variable pricing scheme ... which may award 50 points for each pound of an item purchased'; page 4, paragraphs 0025-0026; and "In this particular embodiment, the point value for redeeming a redemption item is -750 points. The reduction of the price of the redeemable item is -\$1.20", i.e. a conversion ratio of 750 points to 1.2 dollars; page 9, paragraph 0051. Thus, the customer may earn 100 regular points for a purchase of a 5 pound bag of potatoes costing \$10 (conversion ratio of 10 points per dollar) and an additional 250 bonus points for the same purchase (conversion rate of 50 points per pound) for a total point award for that purchase being 350 points. Figure 3c shows these steps (steps 320-324)

Applicants note that the variable pricing scheme and rewards system disclosed by Fredregill awards points to a participant's account based on an item being purchased. The Examiner notes that there may be regular points earned by the participant based on the dollar amount spent for the item and bonus points earned based on the amount of the item purchased, where each of these points has a common value and is stored in a single account. Put another way, the conversion ratio of Fredregill is used to determine the number of points (regular and bonus points) provided to a participant based on the amount of money spent and the amount of an item purchased. *Fredregill does not disclose a system that allows points from different accounts to be used to make a purchase, where those points have different values.* In other words, Fredregill would not be capable of determining the monetary value corresponding to a purchase made with Delta Sky Miles and American Express MR Rewards points.

The Examiner also notes in the Office Action at page 6, that with respect of a point conversion calculator, Fredregill discloses:

If the merchant offers bonus points for purchase of the item, that information would also be displayed in the detailed view of the product. Similarly, if a special discount is available on that product in exchange for the redemption of points, that information may also be displayed' .. "the preferred embodiment displays the beginning point balance and a running summary of the total bonus points and 'regular' points accumulated in the current transaction, and the projected new balance if the consumer purchases the items currently in the shopping cart' and "the web site processor calculates and displays the total monetary amount due ... Information representative of the number of points needed to pay for the order in total may also be available to the user (page 10, paragraphs 0055-0058).

Applicants disagree with the Examiner's assertion that Fredregill discloses a point conversion calculator. Fredregill does not disclose a system that allows a participant to determine values of points from various accounts (e.g. a first value of an amount of Delta Skymiles in a first account and a second value of American Express MR Rewards Points from a second account) to determine the total point cost of a particular purchase. This is not possible with under the system disclosed by Fredregill because all of the points of Fredregill have the same value upon redemption.

Davis discloses a computer-enabled certificate program. The system allows a system provider to provide incentives to users in the form of certificates. Like Fredregill, the system of

Davis does not disclose a logic based point conversion ratio based on the type of loyalty points be used and the item being purchase.

Musharhash discloses a system and software for the design and sale of electro-mechanical circuits. Moreover, Musharhash does not cure the deficiencies for Fredregill and Davis discussed above.

As such, Applicants assert that the cited references alone or in combination do not disclose or contemplate at least, **“determining, by the computer based system, a first conversion ratio for the non-tangible item based on a loyalty point type and a non-tangible item type,”** “calculating, by the computer based system, a first amount of loyalty points and a monetary value of said loyalty points based on the first conversion ratio, to purchase at least one of (i) the non-tangible item in response to the non-tangible item being an independent item, and (ii) the non-tangible item and the associated independent item in response to the non-tangible item being a dependent item, **wherein a deficiency amount is displayed in response to a first loyalty account having a balance that is lower than the first amount of loyalty points,**” “associating, by the computer based system, a second loyalty account having second loyalty points” or **“calculating, by the computer based system, a second amount of loyalty points and a monetary value of said loyalty points associated with the deficiency amount and based on a second conversion ratio associated with the second loyalty account,** wherein a point conversion calculator is displayed in response to the second conversion ratio not being 1 to 1, and wherein a points conversion calculator is not displayed in response to the second conversion being 1 to 1” (emphasis added), as similarly recited in independent claims 17, 27 and 28.

Furthermore, claims 18-26 and 29-33 variously depend from independent claim 17. As such, Applicants assert that claims 18-26 and 29-33 are differentiated from the cited references for the same reasons as set forth above, in addition to their own novel features. Thus, Applicants respectfully request allowance of all pending claims.

When a phrase similar to “at least one of A, B, or C” or “at least one of A, B, and C” is used in the claims or specification, Applicants intend the phrase to mean any of the following: (1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. If an extension of time is necessary, please accept this as a petition therefore. Applicants invite the Office to telephone the undersigned if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: 25 July 2011

By: 
Mark Williams
Reg. No. 64,425

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6542
Fax: 602-382-6070
Email: mwilliams@swlaw.com